

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1272-AIR-E **TCEQ ID:** RN102575925 **CASE NO.:** 36323

RESPONDENT NAME: LDH Energy Mont Belvieu L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Truck & Rail Car Loading, 10343 Farm-to-Market Road 1942, Chambers County</p> <p>TYPE OF OPERATION: Storage terminal with truck and rail car loading operations</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 15, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Scott Clements, Vice President of Regulatory Compliance, LDH Energy Mont Belvieu L.P., 13430 Northwest Freeway, Suite 100, Houston, Texas 77040 Mr. Joseph E. Rothbauer, Vice President of Operations, LDH Energy Mont Belvieu L.P., 13430 Northwest Freeway, Suite 100, Houston, Texas 77040 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 16, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 10, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions. Specifically, 1,822 pounds of mixed butylene/butane was released from the Pump 7 Recirculation Loop during an avoidable emissions event (Incident No. 104602) that began March 3, 2008 and lasted 3 hours and 35 minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 106.261(a)(2) and 106.261(a)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to identify all individually listed compounds or mixtures of air contaminants that resulted from Incident No. 104602 and include the preconstruction authorization number in the final report [30 TEX. ADMIN. CODE § 101.201(b)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$850</p> <p>Total Deferred: \$170 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$680</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent replaced the failed schedule 80 nipple on the Pump 7 Recirculation Loop of the butylenes/butane piping system with a schedule 120 nipple and also replaced two fittings with solid plugs on March 4, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, design and implement procedures to insure unauthorized emissions events are correctly reported; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): CI0197K



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	14-Jul-2008			
	PCW	6-Aug-2008	Screening	5-Aug-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	LDH Energy Mont Belvieu L.P.
Reg. Ent. Ref. No.	RN102575925
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36323	No. of Violations	2
Docket No.	2008-1272-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$1,100
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$0
---------------------------	------------------	--------------------------------	-----

Notes: No NOVs or enforcement orders have been issued to the site within the past five years.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$250
--	-------------------	-------

Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$13
 Approx. Cost of Compliance: \$400
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$850
-----------------------------	-----------------------	-------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<i>Final Penalty Amount</i>	\$850
-----------------------------	-------

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$850
-----------------------------------	-------------------------------	-------

DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$170
-----------------	-----------------	-------------------	--------

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$680
------------------------	-------

Screening Date 5-Aug-2008	Docket No. 2008-1272-AIR-E	PCW
Respondent LDH Energy Mont Belvieu L.P.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36323		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN102575925		
Media [Statute] Air		
Enf. Coordinator Thomas Jecha		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No NOVs or enforcement orders have been issued to the site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 5-Aug-2008	Docket No. 2008-1272-AIR-E	PCW		
Respondent LDH Energy Mont Belvieu L.P.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36323		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN102575925				
Media [Statute] Air				
Enf. Coordinator Thomas Jecha				
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 106.261(a)(2) and (a)(3) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to prevent unauthorized emissions. Specifically, 1,822 pounds of mixed butane/butylene was released from the Pump 7 Recirculation Loop during an avoidable emissions event (Incident No. 104602) that began March 3, 2008 and lasted 3 hours and 35 minutes. Since this emissions event was avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present as affirmative defense were not met.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	x
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="10%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.			
Adjustment			<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>	
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="1"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<input type="text" value="One quarterly event is recommended."/>			<input type="text" value="\$1,000"/>	
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$250"/>	
		Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	x	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)		
Notes	Corrective actions were completed March 4, 2008.			
Violation Subtotal			<input type="text" value="\$750"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total	
			<input type="text" value="\$750"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$750"/>	

Economic Benefit Worksheet

Respondent LDH Energy Mont Belvieu L.P.
Case ID No. 36323
Reg. Ent. Reference No. RN102575925
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$150	3-Mar-2008	4-Mar-2008	0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace two fittings with solid plugs and one schedule 80 nipple with a schedule 120 nipple. The date required is the date of the emissions event and the final date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$0

Screening Date 5-Aug-2008

Docket No. 2008-1272-AIR-E

PCW

Respondent LDH Energy Mont Belvieu L.P.

Policy Revision 2 (September 2002)

Case ID No. 36323

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102575925

Media [Statute] Air

Enf. Coordinator Thomas Jecha

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 101.201(b)(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to identify all individually listed compounds or mixtures of air contaminants that resulted from Incident No. 104602 and include the preconstruction authorization number in the final report.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1%

Matrix Notes The Respondent has met at least 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent: LDH Energy Mont Belvieu L.P.
Case ID No.: 36323
Reg. Ent. Reference No.: RN102575925
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	3-Mar-2008	30-Mar-2009	1.07	\$13	n/a	\$13

Notes for DELAYED costs

Estimated expense to implement measures to ensure the proper reporting of emissions events. The date required is the date the Plant discovered the event and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$13

Compliance History

Customer/Respondent/Owner-Operator: CN603194101 LDH Energy Mont Belvieu L.P. Classification: AVERAGE Rating: 0.75
Regulated Entity: RN102575925 TRUCK & RAIL CAR LOADING Classification: HIGH Site Rating: 0.00
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 48173
AIR NEW SOURCE PERMITS ACCOUNT NUMBER CI0197K
AIR NEW SOURCE PERMITS REGISTRATION 72519
AIR NEW SOURCE PERMITS REGISTRATION 84681
AIR NEW SOURCE PERMITS AFS NUM 4807100106
Location: 10343 FM 1942, CHAMBERS CO, TX, 77580 Rating Date: Sept 1 07 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: August 05, 2008
Agency Decision Requiring Compliance: Enforcement
Compliance Period: August 05, 2003 to August 05, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Jecha Phone: 512 239 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? LDH Energy Mont Belvieu L.P.
4. If Yes, who was/were the prior owner(s)? TE Products Pipeline Company Limited Partnership
5. When did the change(s) in ownership occur? 03/13/2007

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 07/31/2006 (486159)
2 07/09/2008 (671605)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LDH ENERGY MONT BELVIEU L.P.
RN102575925

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1272-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LDH Energy Mont Belvieu L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a storage terminal with truck and rail car loading operations at 10343 Farm-to-Market Road 1942, Chambers County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Hundred Fifty Dollars (\$850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Eighty Dollars (\$680) of the administrative penalty and One Hundred

Seventy Dollars (\$170) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent replaced the failed schedule 80 nipple on the Pump 7 Recirculation Loop of the butylenes/butane piping system with a schedule 120 nipple and also replaced two fittings with solid plugs on March 4, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 106.261(a)(2) and 106.261(a)(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 16, 2008. Specifically, 1,822 pounds of mixed butylene/butane was released from the Pump 7 Recirculation Loop during an avoidable emissions event (Incident No. 104602) that began March 3, 2008 and lasted 3 hours and 35 minutes. Since this emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.
2. Failed to identify all individually listed compounds or mixtures of air contaminants that resulted from Incident No. 104602 and include the preconstruction authorization number in the final report, in violation of 30 TEX. ADMIN. CODE § 101.201(b)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 16, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LDH Energy Mont Belvieu L.P., Docket No. 2008-1272-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, design and implement procedures to insure unauthorized emissions events are correctly reported; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Rollin
For the Executive Director

12/8/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph E. Roshbaver
Signature

9/26/2008
Date

Joseph E. Roshbaver
Name (Printed or typed)
Authorized Representative of
LDH Energy Mont Belvieu L.P.

Vice President - Operations
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

